



Agenda Date: 8/6/2003  
Agenda Item: IIIB

**STATE OF NEW JERSEY**  
**Board of Public Utilities**

*Two Gateway Center  
Newark, NJ 07102  
www.bpu.state.nj.us*

CABLE TELEVISION

IN THE MATTER OF TW FANCH-One, )  
d/b/a TIME WARNER CABLE REQUEST )  
FOR WAIVER, NUNC PRO TUNC, OF )  
NOTICE FOR ALTERATION IN CHANNEL )  
ALLOCATION )

DOCKET NO. CO03060443

(SEE ATTACHED SERVICE LIST)

BY THE BOARD:<sup>1</sup>

On June 10, 2003 TW Fanch-One Co., d/b/a Time Warner Cable (Petitioner or Time Warner), filed a letter, in lieu of Petition, with the Board, requesting a waiver of the time requirements for providing notice of alterations of channel allocations under N.J.A.C. 14:18-3.17, stemming from the deletion of two digital pay-per-view channels.

The programming change requiring channel allocation alterations resulted when program supplier, In-Demand, notified Time Warner that the pay-per-view programming currently provided on channels 331 and 332 would no longer be available as of July 1, 2003. Notice of the deletion of the aforementioned channels did not reach Time Warner until May 30, 2003, thereby making impossible compliance with the requirement to provide subscribers, municipalities and the Office of Cable Television at least thirty (30) days notice prior to the July 1, 2003 effective date.

N.J.A.C. 14:18-3.17(a) states that each cable television company shall notify the Office of Cable Television, and N.J.A.C. 14:18-3.17(b) states that each cable company shall notify its subscribers and municipalities of any deletions in channel allocation at least thirty (30) days prior to the effective date of the deletion. N.J.A.C. 14:18-3.17(c)(3) allows for relaxation of the thirty (30) day notice requirement when the programming service has been discontinued or withdrawn by the provider in such a manner as to leave the cable television operator without sufficient time to comply. In order to satisfy this requirement, however, the cable television operator must "provide the required notice at the earliest possible date." Based upon this regulation, Petitioner seeks a waiver, nunc pro tunc, of the thirty (30) day notice requirements of N.J.A.C. 14:18-3.17 because Petitioner was unable to provide sufficient notice to the Office of Cable Television and the municipalities prior to the deletion taking effect.

---

<sup>1</sup> Commissioner Jack Alter did not participate or vote in this matter.

According to Time Warner, subscribers were notified of the change via on-screen messages beginning on May 30, 2003, and bill messages, which began, with the June 1, 2003 bills. Municipal officials were notified of the change by letter sent on June 2, 2003. The Board was likewise notified on Monday, June 2, 2003 by fax and on Tuesday, June 3 by letter.

Having reviewed this matter, the Board HEREBY FINDS that the Petitioner provided the required notice at the earliest possible date and that the programming service has been discontinued by a third party provider in such a manner as to leave the Petitioner without sufficient time to comply. Therefore, the Board HEREBY APPROVES, nunc pro tunc, Petitioner's request for a waiver of the notification requirements as hereinabove described.

DATED: August 7, 2003

BOARD OF PUBLIC UTILITIES  
BY:

(signed)

\_\_\_\_\_  
JEANNE M. FOX  
PRESIDENT

(signed)

\_\_\_\_\_  
FREDERICK F. BUTLER  
COMMISSIONER

(signed)

\_\_\_\_\_  
CAROL J. MURPHY  
COMMISSIONER

(signed)

\_\_\_\_\_  
CONNIE O. HUGHES  
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO  
SECRETARY

**I/M/O TW FANCH-ONE CO., D/B/A TIME WARNER CABLE  
REQUEST FOR WAIVER NUNC PRO TUNC, OF NOTICE FOR ALTERATION  
OF CHANNEL ALLOCATION**

DOCKET NO. CO3060443

**Dennis C. Linken, Esq.**

Stryker, Tams & Dill, LLP  
Two Penn Plaza East  
Newark, NJ 07102

**Celeste M. Fasone, Director**

Office of Cable Television  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

**Charles A. Russell, Esq., Deputy  
Director**

Office of Cable Television  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

**Kenneth Sheehan, Esq.**

Deputy Attorney General  
State of New Jersey  
Division of Law  
124 Halsey Street  
Newark, NJ 07102

**Nueva D. Elma, Chief**

Bureau of Accounts  
Office of Cable Television  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

**William H. Furlong, Chief**

Bureau of Inspection & Enforcement  
Office of Cable Television  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

**Seema M. Singh, Esq.**

Acting Director and  
Rate Payer Advocate  
Division of Rate Payer Advocate  
31 Clinton Street  
Newark, NJ 07102